IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 5TH JULY 2007 / 14TH ASHADHA 1929

WP(C).No. 20680 of 2007(J)

PETITIONER:

K.V.BALACHANDRAN,
S/O.V.NARAYANAN NAMBIAR,
SREE SAKTHI,NADERI ROAD,KOYILANDY.

BY ADV. SRI.P.S.SREEDHARAN PILLAI
SMT.C.G.PREETHA
SMT.P.RANI DIOTHIMA

RESPONDENTS:

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1. STATE OF KERALA, REPRESENTED BY THE PUBLIC PROSECUTOR,HIGH COURT OF KERALA ERNAKULAM.

2. THE ADDITIONAL DEPUTY GENERAL OF POLICE CRIME BRANCH HEAD QUARTERS,(CBCID), THIRUVANANTHAPURAM.

3. THE SUPERINTENDENT OF POLICE, CBCID, CHALAPPURAM, CALICUT.

4. THE DY.S.P.,CBCID, CHALAPPURAM,CALICUT.

BY GOVERNMENT PLEADER SRI.GIKKU JACOB

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 05/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

R.BASANT, J

W.P(C).No.20680 of 2007

Dated this the 5th day of July, 2007

J U D G M E N T

The petitioner is accused in Crime No.225 of 2005 of Thamarassery Police Station, investigation into which is being at present conducted by the Crime Branch C.I.D. The 4th respondent -Dy.S.P is investigating the said crime. The crime is now re-registered as CBCID Crime No.343 OF 2006. The crime is registered, inter alia, under Section 306 I.P.C. The crux of the allegations is that the petitioner had allegedly abetted the commission of suicide by the deceased person one T.Sivadasan. The investigation is in progress.

2. The petitioner has come to this Court with this petition under Section 482 Cr.P.C for a direction that the 4th respondent who is conducting the investigation may be divested of that responsibility and another competent officer may be directed to conduct the investigation. In the alternative, after discussions at the Bar, the learned counsel for the petitioner submits that the 3rd respondent may be directed to supervise the investigation effectively.

3. The law is well settled. It is not for the accused to dictate who should conduct the investigation in the crime against him. The 4th respondent is legally competent to conduct the investigation. Of course, if it is shown to the satisfaction of a Court that the interests of justice demands that appropriate direction, regarding the personnel

conducting the investigation, must be issued, certainly the powers under Article 226/227 of the Constitution is sufficiently wide and sweeping to accommodate such a direction also. But to invoke such jurisdiction and to grant such a relief, sufficient and compelling reasons must be shown to exist by the petitioner.

4. What are the reasons ? The learned counsel for the petitioner has advanced various reasons. First of all it is contended that news paper report have come that the 4th respondent has arrested the petitioner. As a matter of fact, as per order in B.A.297 of 2007, the petitioner was directed to appear before the Investigating Officer and he had appeared before the Investigating Officer. It was not a case of arrest in the normal sense. The petitioner then contends that the 4th respondent is responsible for such incorrect news items which have appeared in the news papers. For that reason it is contended that the Investigating Officer must be changed. I am unable to agree with the contentions raised. It is a fact that the petitioner was arrested and produced before the learned Magistrate in pursuance of the order dated 25.1.2007 passed in B.A.No.297 of 2007. That the petitioner was arrested is not a false or incorrect statement. Request to change the Investigating Officer for the appearance of such an allegedly incorrect news paper report cannot obviously be accepted.

5. Secondly it is contended that the 4th respondent had acted improperly with reference to release of the official vehicle of the

petitioner. No materials have been produced in respect of such an alleged improper behaviour of the 4th respondent. On a perusal of the averments in the complaint, I am unable to agree that any such indiscretion has been committed by the 4th respondent which would justify the invocation of the jurisdiction under Article 226/227 of the Constitution.

6. It is then contended that a search has been conducted by the 4th respondent in the residential premises of the petitioner. It is contended that this was unjustified. Again, no documents in relation to such search is also produced. Even admittedly such search was conducted in connection with the investigation in this case in an attempt to find out incriminating documents. Such search cannot also be held to be unjustified.

7. To sum up, I do not find any merit in the contention that the Investigating Officer must be changed in this case. If the petitioner has any grievances in future about the investigation conducted by the 4th respondent, needless to say, the petitioner can complain before the 3rd respondent and the 3rd respondent, as the superior, competent and bound to supervise the investigation, must take appropriate and necessary action.

With the above observations, this Writ Petition is, dismissed.

(R.BASANT, JUDGE)

rtr/-